

**ORDINANCE NO. \_\_\_\_\_**

**OF THE CITY OF HATTIESBURG, MISSISSIPPI**

**AN ORDINANCE DEVELOPING A PROCESS BY WHICH THOSE PERSONS CHARGED WITH ONLY A FIRST OFFENSE OF SIMPLE POSSESSION OF THIRTY (30) GRAMS OR LESS OF MARIJUANA SHOULD BE PROCESSED.**

**WHEREAS**, the City of Hattiesburg (“the City”) has an interest in maintaining the public safety and general welfare of the City and its visitors; and

**WHEREAS**, simple possession of marijuana (i.e., possession of thirty (30) grams or less of marijuana) is presently illegal under *Miss. Code Ann.* § 41-29-139 (c) (2) (A) 1., as amended, and that Code subsection provides discretion to law enforcement as to whether to punish the violation of the subsection by summons if the offender provides proof of identity satisfactory to the arresting officer and gives written promise to appear in court satisfactory to the arresting officer, thereby avoiding stigmatizing the offender and creating an undue burden on the City in regards to jail costs; and

**WHEREAS**, the Municipal Court of the City is granted jurisdiction to try and dispose of cases in which a person is in violation of City ordinances and State law, including, but not limited to simple possession of marijuana.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HATTIESBURG HEREBY ORDAINS** the following:

- 1.** The Hattiesburg Police Department should enforce the violation of *Miss. Code Ann.* § 41-29-139 (c) (2) (A) 1. As amended, by summons rather than by imprisonment. If an officer chooses to imprison an offender rather than by summons, that officer shall file with the Chief of Police a written statement explaining why he or she opted for imprisonment.
- 2.** The Municipal Court should punish an initial violation of *Miss. Code Ann.* § 41-29-139 (c) (2) (A) 1. As amended, by a fine of not more than One Hundred Dollars (\$100.00).
- 3.** The Municipal Court should develop a process by which those persons charged with only a first offense of simple possession of marijuana will be fast-tracked through the court process, may pursue non-adjudication of said charge, would receive counseling and, where appropriate in the opinion of the Municipal Court Judge, referral for treatment.
- 4.** Nothing contained herein is intended to be in conflict with *Miss. Code Ann.* § 41-29-139 (c) (2) (A) 1., as amended, and if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining portions of this Ordinance shall remain in effect.

This ordinance shall be effective one (1) month after its passage and after publication of same as required in 21-13-11 Mississippi Code of 1972.

The foregoing ordinance having been reduced to writing, the same was introduced by Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, and was adopted by the following vote, to wit:

**YEAS:**

**NAYS:**

The President thereby declared the motion carried and the Resolution adopted, on this the 18<sup>th</sup> day of June, A.D., 2019

**(SEAL)**

**ATTEST:**

**ADOPTED:**

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**CLERK OF COUNCIL**

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**PRESIDENT OF COUNCIL**

The above and foregoing ordinance having been submitted to and approved by the Mayor, on this the 18<sup>th</sup> day of June, A.D., 2019.

**ATTEST:**

**APPROVED:**

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**CITY CLERK**

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**MAYOR**